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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

|                           |   |                                       |
|---------------------------|---|---------------------------------------|
| UNITED STATES OF AMERICA, | ) | No. CR 05-00395 CRB                   |
|                           | ) |                                       |
| Plaintiff,                | ) | <u>REQUEST, STIPULATION AND ORDER</u> |
|                           | ) |                                       |
| v.                        | ) |                                       |
|                           | ) |                                       |
| HYE CHA KIM,              | ) |                                       |
|                           | ) |                                       |
| Defendant.                | ) |                                       |

This matter is currently on the Court's calendar for November 29, 2006. Through counsel, defendant Hye Cha Kim and the United States ask the Court to (a) vacate the November 29, 2006 date based on the defendant's anticipated plea agreement, (b) set a date of December 13, 2006 for change-of-plea, and (c) exclude time under the Speedy Trial Act, 18 U.S.C. § 3161 from November 29, 2006, to December 13, 2006.

1. The parties are currently engaged in plea negotiations and request that the Court set the matter for December 13, 2006, for status/change-of-plea.

2. Based on the on-going negotiations, defense counsel needs time to review certain discovery. The parties anticipate further discussions to resolve the case.

ORDER  
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3. The parties agree that the time between November 29, 2006 and December 13, 2006 should be excluded from the Speedy Trial clock. Previously, the Court has declared this case complex. See 18 U.S.C. § 3161(h)(8)(B)(ii). Further, defense counsel needs time to review additional materials from the government and investigate the immigration consequences of a plea agreement. The parties agree that a continuance is necessary for the effective preparation of defense counsel, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). Further, given counsels' schedules, a continuance is appropriate based on continuity of counsel. Id. The parties also agree that the ends of justice served by excluding the period from November 29, 2006 to December 13, 2006 outweigh the interest of the public and the defendant in a Speedy Trial. See id. § 3161(h)(8)(A).

STIPULATED:

11/27/06

/s/ PETER B. AXELROD

DATE

PETER B. AXELROD  
LAUREL BEELER  
Assistant United States Attorneys

11/27/06

/s/ PETER B. AXELROD for

DATE

SCOTT SUGARMAN  
Attorney for Hye Cha Kim

### **ORDER**

For good cause shown, and for the reasons stated above, the Court (a) vacates the November 29, 2006, hearing date for defendant Hye Cha Kim based on the anticipated change-of-plea, (b) sets the matter for status/change-of-plea on December 13, 2006, at 2:15 p.m., and (c) excludes times under the Speedy Trial Act, 18 U.S.C. § 3161, from November 29, 2006 to December 13, 2006. The Court finds that the failure to grant the requested exclusion would deny defense counsel reasonable time necessary for effective preparation taking into account the exercise of

1 due diligence. Further, the Court find the exclusion warranted based on continuity of counsel.  
2 The Court also finds the exclusion warranted on complexity grounds, under 18 U.S.C. §  
3 3161(h)(8)(B)(ii). Thus, the Court finds that the ends of justice served by granting the requested  
4 exclusion outweigh the best interest of the public and the defendant in a speedy trial and in the  
5 prompt disposition of criminal cases. The Court therefore concludes that this exclusion of time  
6 should be made under 18 U.S.C. §§ 3161(h)(8)(A), (h)(8)(B)(ii) and (h)(8)(B)(iv).

7 IT IS SO ORDERED.

8  
9 DATED: November 28, 2006

